

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RICHARD SHAPIRO,

Plaintiff,

v.

SANTA CLARA COUNTY SUPERIOR
COURT, et al.,

Defendants.

No. C 07-5049 MJJ (PR)

**ORDER OF DISMISSAL;
GRANTING LEAVE TO
PROCEED IN FORMA
PAUPERIS**

(Docket No. 2)

Plaintiff filed this pro se civil action seeking a petition for a writ of mandamus to compel the Small Claims Court of the Superior Court of the County of Santa Clara to release a list of percipient witnesses to plaintiff. Federal district courts are without power to issue mandamus to direct state courts, state judicial officers, or other state officials in the performance of their duties. A petition for a writ of mandamus to compel a state court or official to take or refrain from some action is frivolous as a matter of law. See In re Campbell, 264 F.3d 730, 731-32 (7th Cir. 2001) (denying petition for writ of mandamus that would order state trial court to give petitioner access to certain trial transcripts which he sought in preparation for filing state post-conviction petition; federal court may not, as a general rule, issue mandamus to a state judicial officer to control or interfere with state court litigation); see Demos v. U.S. District Court, 925 F.2d 1160, 1161-62 (9th Cir. 1991)

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(imposing no filing in forma pauperis order); Dunlap v. Corbin, 532 F. Supp. 183, 187 (D. Ariz. 1981) (plaintiff sought order from federal court directing state court to provide speedy trial), aff'd without opinion, 673 F.2d 1337 (9th Cir. 1982). Accordingly, this action is hereby DISMISSED for failure to state a claim upon which relief can be granted.¹

In light of plaintiff's lack of funds, the application to proceed in forma pauperis is GRANTED.²

The Clerk shall close the file, and terminate Docket No. 2.

IT IS SO ORDERED.

DATED: 10/24/07


MARTIN J. JENKINS
United States District Judge

¹Leave to amend is not warranted because plaintiff's allegations establish that no constitutional violation took place.

²Plaintiff correctly notes that as he is not a prisoner, the Court's "(PR)" designation should be removed from his case number. Furthermore, the partial and installment payment provisions of the Prisoner Litigation Reform Act applicable to prisoners granted in forma pauperis status, do not apply to plaintiff.